



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals (WWWOSSP)
<b>Virginia Administrative Code (VAC) citation</b>	18VAC160-20
<b>Regulation title</b>	Board for Waterworks and Wastewater Work Operators Regulations
<b>Action title</b>	Implement 2007 Legislation
<b>Date this document prepared</b>	July 9, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The Board intends to amend its existing regulations to include the regulation of Licensed Onsite Soil Evaluators (LOSE), Alternative Onsite Sewage System Installer (AOSSI) and Alternative Onsite Sewage System Operators (AOSSO) as mandated by the provisions of HB 3134 and SB 1270 passed by the 2007 Session of the Virginia General Assembly.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 54.1-2301 B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2301>) states that the Board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators. Further, the Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § [32.1-163](#); and (iii) operators of alternative onsite sewage

systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; and (e) other criteria the Board deems necessary.

The regulations are required to be in effect on July 1, 2009.

The imperative form of the verb “shall” is used, making the Board’s authority to regulate mandatory rather than discretionary.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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The regulatory action is necessary to implement HB 3134 and SB 1270 passed by the 2007 Session of the Virginia General Assembly.

**Substance**

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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The Board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems, as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems, as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; and (e) other criteria the Board deems necessary.

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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The Board will consider the licensing program currently operated by the Virginia Department of Health for Authorized Onsite Soil Evaluators (AOSE) and will determine what amendments, if any, are to be made to the current licensing and performance standards employed by the Virginia Department of Health. The Board will seek input from the Virginia Department of Health and from the current AOSE regulants of the Virginia Department of Health.

The Board will seek input from current alternative onsite sewage system installers and alternative onsite sewage system operators to determine the appropriate regulatory mechanism that will protect the public, and the environment as well as assure minimally competent licensees.

**Public participation**

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to David Dick, Executive Director, DPOR, P. O. Box 11066, Richmond, VA 23230-1066, (804) 367-8595, e-mail: [waterwasteoper@dpor.virginia.gov](mailto:waterwasteoper@dpor.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

**Participatory approach**

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

The Board will use a participatory approach in the development of the proposal and may appoint committees composed of both Board members and non-members.

**Family impact**

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

No family impact has been identified.

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